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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,724	09/20/2000	Joseph E. Cloutier	4-4-1-1	5654

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EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

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DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/665,724

Applicant(s)

CLOUTIER ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 7-17 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kingdon et al. (U.S. Patent 6,185,428 B1).

For claim 7, Kingdon et al. disclose system and method for adaptively modifying base station transceiver resources for time of arrival measurement, comprising:

inserting channel delay in data being carried over a communication channel to increase a length of time required for a time out (figure 3, col. 7 lines 19-43 and col. 7 line 64 to col. 8 line 67).

For claim 8, Kingdon et al. disclose wherein said inserting includes inserting channel delay into data to be transmitted by a base station over said communication channel (col. 7 lines 19-43).

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For claim 9, Kingdon et al. disclose further comprising: controlling an amount of said channel delay inserted in said data (col. 7 lines 19-43).

For claim 10, Kingdon et al. disclose wherein said controlling includes: monitoring acknowledge messages received in response to said data transmitted with said delay, and determining a desired channel delay for insertion based on a delay observed between transmission of said data and reception of said acknowledge messages (figure 3, col. 7 line 64 to col. 8 line 67).

For claim 11, Kingdon et al. disclose wherein said inserting includes inserting said channel delay into an acknowledge message to be transmitted over said communication channel in response to a received data transmission (figure 3, col. 7 line 64 to col. 8 line 67).

For claim 12, Kingdon et al. disclose further comprising: controlling an amount of channel delay inserted in said acknowledge message (col. 7 lines 19-43).

For claim 13, Kingdon et al. disclose wherein said controlling includes: adding channel delay to said acknowledge messages, so as to increase channel delay as observed by a receiver of the acknowledge message (figure 3, col. 7 line 64 to col. 8 line 67).

For claim 14, Kingdon et al. disclose wherein said inserting includes adding channel delay to said communication channel at a mobile station to control time out for data transmission between said mobile station and an application (figure 3, col. 7 line 64 to col. 8 line 67).

For claim 15, Kingdon et al. disclose system and method for adaptively modifying base station transceiver resources for time of arrival measurement, comprising:

means for transmitting and receiving data over a communication channel (figure 1, col. 4 lines 34-48); and

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means for inserting channel delay into data to be transmitted over said communication channel to increase a length of time required for a time out (figure 3, col. 7 lines 19-43 and col. 7 line 64 to col. 8 line 67).

For claim 16, Kingdon et al. disclose wherein said means for inserting includes: at least one buffer adapted for adding channel delay in said data to be transmitted (col. 6 lines 29-37); and

a processor monitoring acknowledge messages received in response to said data transmitted with said channel delay, and determining a desired channel delay based on received acknowledge messages (col. 7 lines 19-43).

For claim 17, Kingdon et al. disclose wherein said processor modifies the depth or amount of delay added by the buffer until a desired delay is measured as seen by a delay in receiving said acknowledge messages (figure 3, col. 7 lines 19-43 and col. 7 line 64 to col. 8 line 67).

For claim 19, Kingdon et al. disclose system and method for adaptively modifying base station transceiver resources for time of arrival measurement, comprising:

means for transmitting and receiving data over a communication channel (figure 1, col. 4 lines 34-48); and

means for inserting channel delay in said communication channel to control time out for data transmission between said mobile communication device and an application (figure 3, col. 7 lines 19-43 and col. 7 line 64 to col. 8 line 67).

For claim 20, Kingdon et al. disclose wherein said means for inserting includes: at least one buffer adapted for adding channel delay in data to be transmitted by the device (col. 6 lines

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29-37) and a processor controlling a depth of said at least one buffer to control channel delay (col. 7 lines 19-43).

For claim 21, Kingdon et al. disclose wherein said at least one buffer is one of an outgoing buffer and acknowledge buffer (col. 6 lines 29-37).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kingdon et al. (U.S. Patent 6,185,428 B1) in view of Popovic' (U.S. Patent 6,567,482 B1).

For claim 18, Kingdon et al. do not disclose wherein said buffer is one of a shift register and a cyclically addressed memory. In an analogous art, Popovic' discloses wherein said buffer is one of a shift register and a cyclically addressed memory (col. 5 lines 48-49 and col. 11 lines

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54-57). One skilled in the art would have recognized a shift register to use the teachings of Popovic' in the system of Kingdon et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the shift register as taught by Popovic' in Kingdon et al.'s system with the motivation being make generator particularly attractive as a sequence generator in the random access burst transmitter of the mobile terminal and also in the base station transmitter (col. 11 lines 57-60).

***Response to Arguments***

6. Applicant's arguments with respect to claims 7-21 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

*Toan D. Nguyen*  
Toan D. Nguyen